

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Annual Assessment of the Status of)	MB Docket No. 12-203
Competition in the Market for the)	
Delivery of Video Programming)	

**COMMENTS OF
THE CITY OF AUSTIN, TEXAS**

The City of Austin, Texas, (the City), submits these comments in response to the above-captioned Notice of Inquiry (“NOI”), released July 20, 2012, seeking “data, information, and comment on the state of competition in the delivery of video programming.”

The City is responsible for seven Public, Educational, and Governmental noncommercial channels, (three Public Access, two Educational, and two Governmental Access channels), for the greater Austin metropolitan area with a population that is rapidly approaching two million with the City’s population at 812,000.

1. AT&T U-Verse carries six of the seven PEG channels, and all seven channels are carried by Grande Communications and Time Warner Cable, the other two wire-line Multichannel Video Programming Distributors, (MVPD) providing service in the City.

2. An estimated 185,000 households in the City receive the PEG channels, with an additional estimated 150,000 households in the greater Austin metropolitan area. As the incumbent cable service provider, Time Warner Cable provides its services to the entire City. Grande Communications and AT&T U-Verse services are provided under the State Issued Certificate of Franchise Authority, (SICFA) which does not require them to provide service to the entire City, and

it is estimated that less than one-half of the City is served by more than one of the three cable providers.

3. AT&T U-Verse carries six of the seven PEG channels on its U-basic digital tier channel-99 which requires a U-Verse converter. On U-Verse, the individual PEG channels must be selected from a pull-down menu, without programming listings, DVD recording capabilities, or channel surfing capabilities, and the format and quality of the channels is inferior to the other U-Verse channels. Grande Communications carries the seven PEG channels on its basic service tier which can be viewed by all types of televisions without additional equipment. Time Warner Cable carries the PEG channels on its basic tier in a digital format that requires the use of a digital converter box on televisions that do not have a built in QUAM digital converter.

4. The number of PEG channels available in Austin has not changed since June 2010.

5. The only data sources to track PEG channel availability are the channel lineup listings of the three cable companies which only identify the source of each channel, Public Access, Austin Independent School District, Austin Community College, City Government and County Government. Subscribers have to view PEG programming details on the individual PEG channel web sites.

6. The City has received several complaints about the difficulty in using AT&T's "Channel 99 PEG product" on U-Verse as well as complaints about the quality and format of the images.

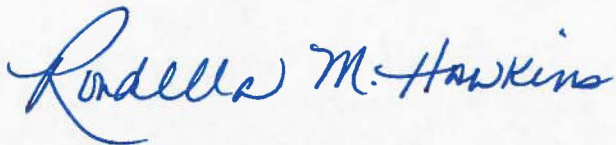
7. There is strong support for community media and community-based programming in Austin. This support is demonstrated by Austin having one of the longest running Public Access channels in the country. The City's 3 public access channels are managed by an independent non-profit 501(c)(3) organization, channelAustin, which is dedicated to providing the base necessities for

functioning community media – physical space, staff, up-to-date equipment, local governance, broad multimedia training.

8. Multichannel Video Programming Distributor (MVPD) funding for City Public Access operations was cut off when the State Issued Certificate of Franchise Authority (SICFA) administered by the Public Utility Commission of Texas replaced the City's cable franchise authority in 2011. Under the SICFA, the providers remit one percent of their gross revenues to the City, but these funds can only be used for capital purchases related to the City's PEG channels. None of the PEG fees can be used for operational expenses. This change has caused annual operational funding for the three Public Access channels to be reduced by more than one third which has caused a reduction in the availability of resources to community members.

9. As a policy matter, it is important that the FCC support changes in the regulations that prevent PEG fees from being used to support channel operational expenses and that it also put in place protections to assure that PEG channels are part of the HD migration. In cities and towns around the nation, industry is taking analog capacity and converting it into a multiplicity of digital and HD channels, but they are not converting PEG channels.

Date: September 7, 2012



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